RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 19310/2026

CNR: RJHC020871092026 | URN: CW / 40156U / 2026

1. Union Of India, Through The Secretary, Ministry Of Defence, Govt. Of India, New Delhi.
2. The Oic Records, Records The Brigade Of Guards , Kamptee-441001
3. The Cda(P), Draupadi Ghat, Prayagraj, Up

----Petitioners

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Versus

Smt Kamla Devi Wd/ O Army No. 13681102 Late Hav Jai Singh, Resident Of Dhandhal Lekhu Post Guipura, Tehsil Rajgarh, District-Churu, Rajasthan.

----Respondent

For Petitioner(s) : Mr. Divyesh Maheshwari with
Mr. Harsh Vardhan Katara &
Mr. Ghanshyam Gaur

For Respondent(s) : Mr. Rajesh Gadhwal

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE SAMEER JAIN

Order

27/10/2026

1. This writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India has been preferred by the petitioners questioning the legality, validity and correctness of the order dated 25.02.2025 passed by the Armed Forces Tribunal, Regional Branch, Jaipur (for short 'the Tribunal'), by which the respondent's application filed under Section 14 of the Armed Forces Tribunal Act, 2007 (for short 'the Act of 2007') was allowed and the direction has been issued to grant special family pension to the respondent-herein w.e.f. 20.10.2013 confining the arrears for a period of three years.

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2. The husband of the respondent-herein was enrolled in the Army on 25.09.1980 and was promoted to the rank of Havildar. While in service, he suffered disease namely, 'Non Hodgkin's Lymphoma (Stage-IIIA)' for which after treatments, he was granted four weeks' sick leave by the competent authority. During sick leave at home, he died due to said disease on 18.08.1999. and the respondent was granted the ordinary family pension instead of special family pension, leading to filing of the application for grant of special family pension with some delay.

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3. Before the Tribunal, the present petitioner filed the reply stating that the husband of the respondent-herein died on 18.08.1999 from the disease namely 'Non Hodgkin's Lymphoma (Stage-IIIA)' at his home town, Dhaniwala, while being on sick leave from 14.08.1999 to 10.09.1999. The respondent has already been granted ordinary family pension and the claim of the respondent for special family pension has rightly been rejected, as respondent is not entitled for any relief.

4. However, the Tribunal allowed the application holding that the husband of the respondent was contacted with the disease because of his exposure to radiation while posted at Pokhran area and should have been considered as attributable to the military service, it has been observed in para 6 by the Tribunal as under:

> *"6. From foregoing, it is evident that the husband of the applicant died on 18/8/1999 at his home town during sick leave granted to him by the medical authorities for the period 14/8/1999 to 10/9/1999. Since husband of the applicant died within days of his arrival at his home, it could be presumed that he apparently breathed his last because of the disease for which he was under treatment during the period and was also granted Sick Leave after treatment at the military hospital. Repeated contention of the counsel for the applicant that the husband of the applicant was afflicted with the disease because of his*

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exposure to radiation while posted at Pokharan area and should have been considered as attributable to military service, it was not countered by the Respondents. Moreover, it is also pertinent to observe that despite giving ample opportunity to the respondents vide Orders of this Tribunal dated 03/09/2024 and 18/10/2024, the respondents have failed to controvert the statement of the counsel for the applicant by placing on record any medical document pertaining to the disability of the husband of the applicant while in service and the medical report/opinion on his death as also not clarifying the factual position of the basis on which the death of the husband of the applicant has been categorized as attributable to military service by the Records, the Brigade of the Guards as claimed by the Applicant. In view of the foregoing and since husband of the applicant died within four days of his having been granted sick leave, we are of the considered opinion that the husband of the applicant died due to the disease with which he was under treatment and, hence, his unfortunate death could be made attributable to military service, entitling the Applicant to receive Special Family Pension. However, in the absence of Court of Inquiry or Postmortem Report, we are not inclined to grant any further relief to the applicant as prayed for in the OA. Also, since there has been an inordinate delay in filing the OA on 20/10/2016, the arrears need to be restricted to three years prior to the date of filing of the OA in terms of judgment of the Hon'ble Apex Court in the case of UOI & Ors. Vs Tarsem Singh, 2008 (8) SCC 648.s"

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5. Learned counsel for the petitioners submits that the medical documents could not be produced and as such the impugned order of the Tribunal recording a finding that the aforesaid leave has been granted, is liable to be set aside.

6. We have heard learned counsel for the parties, considered their rival submissions and gone through the relevant record of the case with utmost circumspection.

7. Admittedly, the respondent's husband was posted at Pokhran area and it is the case of the respondent that her husband suffered exposure to radiation while posted at Pokhran area, where he was holding the post of Havildar. He died during sick leave from 14.08.1999 to 10.09.1999.

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8. A careful perusal of the documents, which is a particular of the deceased soldier available at page 34 of the writ petition, would show the cause of death, which has been recorded as under:

"१०. मृत्यु का कारण सैनिक नौकरी माना जा सकता है या कोई और।
Attributability to Military Service or Otherwise
Attributable to Military Service"

9. As such the petitioners' own document would show that the death of the deceased government servant is attributable to the military service.

10. Even otherwise, the learned Tribunal has clearly recorded a finding that despite granting time, the Union of India could not place on record the medical documents pertaining to disability of the pensioner while in service. A finding recorded in para 6 of the order dated 25.02.2025 holding that his unfortunate death could be made attributable to military service, entitling the applicant to receive Special Family Pension, is a correct finding of facts based on evidence available on record. Moresoever, the Tribunal acted reasonably while granting the arrears for a period of three years from the date of filing of the OA in terms of the judgment of the Hon'ble Surpeme Court in the matter of **UOI & Ors. Vs. Tarsem Singh**[1].

11. In that view of the matter, we are not inclined to entertain the writ petition.

12. Accordingly, the writ petition is dismissed.

13. We direct to compute the arrears within a period 30 days from the date of production of copy of this order.

1 2008 (8) SCC 648

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14. However, if the amount is not paid within a period of 30 days thereafter, the respondent-herein will be entitled to interest @6% per annum on that amount.

(SAMEER JAIN),J (SANJAY K. AGRAWAL),CJ

SANJAY KUMAWAT/RAJAT/DA-14

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